

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

THE DIAMOND CENTER, INC.,

Plaintiff,

Civil Action No. 07 C 0708 S

v.

LESLIE'S JEWELRY MFG. CORP.,

Defendant.

DEFENDANT'S MOTION TO DISMISS

Defendant Leslie's Jewelry Mfg. Corp. ("Leslie's"), by its attorneys Nixon Peabody, LLP and Godfrey & Kahn, S.C., moves the Court pursuant to Federal Rule of Civil Procedure 12(b)(6) for an order dismissing the first, fourth, fifth, and sixth causes of action of the complaint of the plaintiff, The Diamond Center, Inc. ("The Diamond Center").

The grounds for this motion are that the plaintiff cannot state a claim for a violation of the Robinson-Patman Act (first cause of action), unjust enrichment (fifth cause of action), promissory estoppel (sixth cause of action), or tortious interference with contract (fourth cause of action). These four claims fail as a matter of law. This motion is based upon and supported by the pleadings and papers filed in this case and the brief accompanying this Motion to Dismiss.

Dated: January 22, 2008

GODFREY & KAHN, S.C.

By: s/ James D. Peterson

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CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2008, I caused the following documents to be electronically filed with the Clerk of the Court using the CM/ECF system and that true and correct copies of the following were also served by electronic mail on counsel listed below:

- **DEFENDANT’S MOTION TO DISMISS; and**
- **DEFENDANT’S BRIEF IN SUPPORT OF ITS MOTION TO DISMISS.**

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